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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,817	06/07/2001	Elliot M. Gold	41022/FLC/G322	1209

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EXAMINER

COULTER, KENNETH R

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/877,817	GOLD ET AL.	
	Examiner	Art Unit	
	Kenneth R Coulter	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 - 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dengler (U.S. Pat. No. 6,581,103) (Method for Internet Radio Broadcasting Including Listener Requests of Audio and/or Video Files With Input Dedications) in view of Wiser et al. (U.S. Pat. No. 6,385,596) (Secure Online Music Distribution System).

- 2.1 Regarding claim 1, Dengler discloses a method of sending a song dedication from a sender to a recipient, comprising the steps of:

receiving transaction information from the sender, the transaction information comprising a recipient address, a song selection, and a voice dedication message (Abstract; col. 3, lines 5 – 10 “uploaded voice file”; “The associated dedication can then be emailed”; col. 3, lines 25 – 27 “Dedications are the typed in or uploaded voice files that accompany requests.”);

transmitting the voice dedication message and the song selection to the recipient at the recipient address (col. 3, lines 5 – 10 “uploaded voice file”; “The associated dedication can then be emailed”).

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However, Dengler does not explicitly disclose:

generating a personal identification number corresponding to the transaction information;

transmitting the personal identification number to the recipient at the recipient address;

receiving a request from the recipient, the request including the personal identification number.

Wiser discloses:

generating a personal identification number corresponding to the transaction information (Abstract "The digital passport contains identifying information that identifies the purchaser");

transmitting the personal identification number to the recipient at the recipient address (Abstract);

receiving a request from the recipient, the request including the personal identification number (Abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the personal identification number scheme of Wiser in Dengler because such a scenario must be implemented in order to authenticate users of the Dengler system and prevent malicious misuse of the song dedication service.

2.2 Per claim 2, Dengler teaches the method of claim 1 wherein the step of sending the voice dedication message and the song selection to the recipient is performed using

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the Internet (Abstract; col. 3, lines 1 - 10).

2.3 Regarding claim 3, Dengler discloses the method of claim 1 wherein the step of sending the voice dedication message and the song selection to the recipient is performed telephonically (Abstract; col. 3, lines 1 – 10 (recipient dial-up Internet connection)).

2.4 Per claim 4, Dengler teaches the method of claim 1 wherein the transaction information further comprises a sender address, the method further comprising the step of transmitting a confirmation to the sender at the sender address after the recipient has been sent the voice dedication message and the song selection (Abstract; col. 3, lines 1 – 10 (email confirmation)).

2.5 Regarding claim 5, Dengler discloses the method of claim 1 further comprising the steps of receiving from the sender a telephone message for use as the voice dedication message (col. 3, lines 25 – 27 “Dedications are the typed in or **uploaded voice files** that accompany requests.”; col. 1, lines 38 – 40 “Generally, within conventional radio stations, requests are taken by telephone.”).

2.6 Per claims 6 – 23, the rejection of claims 1 – 5 under 35 USC 103 (paragraphs 2.1 – 2.5 above) applies fully.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R Coulter whose telephone number is 703 305-8447. The examiner can normally be reached on 5 4 9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 703 305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

krc

KENNETH R. COULTER
PRIMARY EXAMINER

